

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

FRESHAWNA M. BRYANT)	
)	
Plaintiff,)	
)	
v.)	No. 2:16 CV 534
)	
MEGAN J. BRENNAN,)	
)	
Defendant.)	

ORDER

This matter is before the court on Magistrate Judge Andrew Rodovich’s *sua sponte* report and recommendation. (DE # 11.) On December 27, 2016, Freshawna Bryant filed a complaint against Megan J. Brennan, the Postmaster General. (DE # 1.) However, Bryant did not file documents showing service on the defendant, and on April 17, 2017, the court filed a notice that a failure to complete service of process was sufficient to warrant dismissal. (DE # 8.) In response, Bryant filed her own notice asserting that she had properly served process pursuant to Federal Rule of Civil Procedure 4(i). (DE # 10.) However, the Magistrate Judge disagreed and issued a report and recommendation finding that the docket failed to show the necessary summonses as required by Rule 4(i). (DE # 11 at 1.) Thus, he recommended that the matter be “dismissed for lack of service.” (*Id.* at 2.)

The next day, Bryant filed an objection to the report and recommendation. (DE # 12.) When a party objects to a magistrate judge's report and recommendation, the district court “shall make a de novo determination of those portions of the report . . . or recommendations to which objection is made.” 28 U.S.C. § 636(b)(1)(C). The district

court has discretion to “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” *Id.*; FED. R. CIV. P. 72(b).

The court first looks to the Magistrate Judge’s finding that the docket, as of May 8, 2017, failed to show that the necessary summonses were executed as required. Nothing in the objection leads the court to question this finding. Even Bryant – in her objection – does not argue that the documents she disclosed in her prior notice (DE # 10) were sufficient to demonstrate proper service. (*See* DE # 12.) Accordingly, the court will accept this finding from the report and recommendation.

Next the court looks to the Magistrate Judge’s recommendation that the matter be dismissed for lack of service. On May 9, 2017, Bryant filed new documents which she purports reflect that service of process was proper under the requirements of Rule 4(i). (*See* DE ## 12, 12-1, 12-2, 12-3, 12-4, 12-5, 12-6, 12-7, 12-8, 12-9, 12-10, 12-11, 12-12.) Given these new entries to the docket, the court finds that dismissal based on the status of the docket on May 8, 2017, is no longer appropriate.

For the reasons explained above, this court **ACCEPTS in part** the report and recommendation of Magistrate Judge Rodovich (DE # 11) to the extent that it finds that the docket, as of May 8, 2017, failed to reflect proper service. The court **REJECTS in part** the report and recommendation (DE # 11) to the extent that it recommends dismissal for lack of service.

SO ORDERED.

Date: May 16, 2017

s/James T. Moody
JUDGE JAMES T. MOODY
UNITED STATES DISTRICT COURT